

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PENN, LLC, et al.,

Plaintiffs,

v.

Case No. 2:10-cv-0993

JUDGE GREGORY L. FROST

Magistrate Judge Terence P. Kemp

**PROSPER BUSINESS DEVELOPMENT
CORPORATION, et al.,**

Defendants.

ORDER

This matter is before the Court on the motion of Defendants Gary Drenik and Phil Rist to vacate the attorney fees hearing scheduled for December 5, 2013, and request for the Court to enter final judgment in this matter in accordance with the jury's verdict. (ECF No. 311.)

Defendants Drenik and Rist state in their motion that they "no longer wish to pursue an award of attorney fees." (*Id.* at PageID# 17644.) As part of its verdict in favor of Defendants on the counterclaim for abuse of process, the jury found that Defendants Drenik and Rist were entitled to an award of attorney fees in an amount to be determined by the Court. (Order, ECF No. 289.)

The Court **GRANTS IN PART AND DENIES IN PART** Defendants' motion. In accordance with Defendants Drenik and Rist waiving their recovery of attorney fees, the Court hereby **VACATES** the attorney fee hearing previously scheduled for December 5, 2013. (ECF No. 291.) The Court **DENIES** the request of Drenik and Rist for this Court to enter final judgment in this matter. The Court defers entry of final judgment until its disposition of Plaintiff's post-trial motion for judgment as a matter of law or, alternatively, for new trial. (ECF No. 309.)

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE